
SECOND SUBSTITUTE SENATE BILL 5381

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, Regala, McAuliffe and Shin)

READ FIRST TIME 03/05/07.

1 AN ACT Relating to the safety of dependent children; amending RCW
2 13.34.138, 13.34.025, 74.13.330, and 71.24.035; adding a new section to
3 chapter 26.44 RCW; adding a new section to chapter 43.101 RCW; adding
4 a new section to chapter 13.34 RCW; and creating new sections.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 13.34.138 and 2005 c 512 s 3 are each amended to read
7 as follows:

8 (1) Except for children whose cases are reviewed by a citizen
9 review board under chapter 13.70 RCW, the status of all children found
10 to be dependent shall be reviewed by the court at least every six
11 months from the beginning date of the placement episode or the date
12 dependency is established, whichever is first, at a hearing in which it
13 shall be determined whether court supervision should continue. The
14 initial review hearing shall be an in-court review and shall be set six
15 months from the beginning date of the placement episode or no more than
16 ninety days from the entry of the disposition order, whichever comes
17 first. The initial review hearing may be a permanency planning hearing
18 when necessary to meet the time frames set forth in RCW 13.34.145(3) or
19 13.34.134. The review shall include findings regarding the agency and

1 parental completion of disposition plan requirements, and if necessary,
2 revised permanency time limits. This review shall consider both the
3 agency's and parent's efforts that demonstrate consistent measurable
4 progress over time in meeting the disposition plan requirements. The
5 requirements for the initial review hearing, including the in-court
6 requirement, shall be accomplished within existing resources. The
7 supervising agency shall provide a foster parent, preadoptive parent,
8 or relative with notice of, and their right to an opportunity to be
9 heard in, a review hearing pertaining to the child, but only if that
10 person is currently providing care to that child at the time of the
11 hearing. This section shall not be construed to grant party status to
12 any person who has been provided an opportunity to be heard.

13 (a) A child shall not be returned home at the review hearing unless
14 the court finds that a reason for removal as set forth in RCW 13.34.130
15 no longer exists. The parents, guardian, or legal custodian shall
16 report to the court the efforts they have made to correct the
17 conditions which led to removal. If a child is returned, casework
18 supervision shall continue for a period of six months, at which time
19 there shall be a hearing on the need for continued intervention.

20 (b) Prior to the child returning home, the department must complete
21 the following:

22 (i) Identify any persons who may act as a caregiver for the child
23 in addition to the parent with whom the child is being placed and
24 determine whether such persons are in need of any services in order to
25 ensure the safety of the child, regardless of whether such persons are
26 a party to the dependency. The department or supervising agency may
27 recommend to the court and the court may order that placement of the
28 child in the parent's home be contingent on or delayed based on the
29 need for such persons to engage in or complete services to ensure the
30 safety of the child prior to placement. If services are recommended
31 for the caregiver, and the caregiver fails to engage in or follow
32 through with the recommended services, the department or supervising
33 agency must promptly notify the court; and

34 (ii) Notify the parent with whom the child is being placed that he
35 or she has an ongoing duty to notify the department or supervising
36 agency of all persons who reside in the home or who may act as a
37 caregiver for the child both prior to the placement of the child in the
38 home and subsequent to the placement of the child in the home as long

1 as the court retains jurisdiction of the dependency proceeding or the
2 department is providing or monitoring either remedial services to the
3 parent or services to ensure the safety of the child to any caregivers.

4 Caregivers may be required to engage in services under this
5 subsection solely for the purpose of ensuring the present and future
6 safety of a child who is a ward of the court. This subsection does not
7 grant party status to any individual not already a party to the
8 dependency proceeding, create an entitlement to services or a duty on
9 the part of the department or supervising agency to provide services,
10 or create judicial authority to order the provision of services to any
11 person other than for the express purposes of this section or RCW
12 13.34.025 or if the services are unavailable or unsuitable or the
13 person is not eligible for such services.

14 (c) If the child is not returned home, the court shall establish in
15 writing:

16 (i) Whether reasonable services have been provided to or offered to
17 the parties to facilitate reunion, specifying the services provided or
18 offered;

19 (ii) Whether the child has been placed in the least-restrictive
20 setting appropriate to the child's needs, including whether
21 consideration and preference has been given to placement with the
22 child's relatives;

23 (iii) Whether there is a continuing need for placement and whether
24 the placement is appropriate;

25 (iv) Whether there has been compliance with the case plan by the
26 child, the child's parents, and the agency supervising the placement;

27 (v) Whether progress has been made toward correcting the problems
28 that necessitated the child's placement in out-of-home care;

29 (vi) Whether the parents have visited the child and any reasons why
30 visitation has not occurred or has been infrequent;

31 (vii) Whether additional services, including housing assistance,
32 are needed to facilitate the return of the child to the child's
33 parents; if so, the court shall order that reasonable services be
34 offered specifying such services; and

35 (viii) The projected date by which the child will be returned home
36 or other permanent plan of care will be implemented.

37 ((+e)) (d) The court at the review hearing may order that a

1 petition seeking termination of the parent and child relationship be
2 filed.

3 (2)(a) In any case in which the court orders that a dependent child
4 may be returned to or remain in the child's home, the in-home placement
5 shall be contingent upon the following:

6 (i) The compliance of the parents with court orders related to the
7 care and supervision of the child, including compliance with an agency
8 case plan; and

9 (ii) The continued participation of the parents, if applicable, in
10 available substance abuse or mental health treatment if substance abuse
11 or mental illness was a contributing factor to the removal of the
12 child.

13 (b) The following may be grounds for removal of the child from the
14 home, subject to review by the court:

15 (i) Noncompliance by the parents with the agency case plan or court
16 order;

17 (ii) The parent's inability, unwillingness, or failure to
18 participate in available services or treatment for themselves or the
19 child, including substance abuse treatment if a parent's substance
20 abuse was a contributing factor to the abuse or neglect; or

21 (iii) The failure of the parents to successfully and substantially
22 complete available services or treatment for themselves or the child,
23 including substance abuse treatment if a parent's substance abuse was
24 a contributing factor to the abuse or neglect.

25 (c) In a pending dependency case in which the court orders that a
26 dependent child may be returned home and that child is later removed
27 from the home, the court shall hold a review hearing within thirty days
28 from the date of removal to determine whether the permanency plan
29 should be changed, a termination petition should be filed, or other
30 action is warranted. The best interests of the child shall be the
31 court's primary consideration in the review hearing.

32 (3) The court's ability to order housing assistance under RCW
33 13.34.130 and this section is: (a) Limited to cases in which
34 homelessness or the lack of adequate and safe housing is the primary
35 reason for an out-of-home placement; and (b) subject to the
36 availability of funds appropriated for this specific purpose.

37 (4) The court shall consider the child's relationship with siblings
38 in accordance with RCW 13.34.130(3).

1 **Sec. 2.** RCW 13.34.025 and 2002 c 52 s 2 are each amended to read
2 as follows:

3 (1) The department of social and health services shall develop
4 methods for coordination of services to parents and children in child
5 dependency cases. To the maximum extent possible under current funding
6 levels, the department must:

7 ~~((1))~~ (a) Coordinate and integrate services to children and
8 families, using service plans and activities that address the
9 children's and families' multiple needs, including ensuring that
10 siblings have regular visits with each other, as appropriate.
11 Assessment criteria should screen for multiple needs;

12 ~~((2))~~ (b) Develop treatment plans for the individual needs of the
13 client in a manner that minimizes the number of contacts the client is
14 required to make; and

15 ~~((3))~~ (c) Access training for department staff to increase skills
16 across disciplines to assess needs for mental health, substance abuse,
17 developmental disabilities, and other areas.

18 (2) The department shall coordinate within the administrations of
19 the department, and with contracted service providers, to ensure that
20 parents in dependency proceedings under this chapter receive priority
21 access to remedial services recommended by the department in its social
22 study or ordered by the court for the purpose of correcting any
23 parental deficiencies identified in the dependency proceeding that are
24 capable of being corrected in the foreseeable future. Services may
25 also be provided to caregivers other than the parents as identified in
26 RCW 13.34.138.

27 (a) For purposes of this chapter, remedial services are those
28 services defined in the federal adoption and safe families act as
29 time-limited family reunification services. Remedial services include
30 individual, group, and family counseling; substance abuse treatment
31 services; mental health services; assistance to address domestic
32 violence; services designed to provide temporary child care and
33 therapeutic services for families; and transportation to or from any of
34 the above services and activities.

35 (b) The department shall provide funds for remedial services if the
36 parent is unable to pay to the extent funding is appropriated in the
37 operating budget or otherwise available to the department for such
38 specific services. As a condition for receiving funded remedial

1 services, the court may inquire into the parent's ability to pay for
2 all or part of such services or may require that the parent make
3 appropriate applications for funding to alternative funding sources for
4 such services.

5 (c) If court-ordered remedial services are unavailable for any
6 reason, including lack of funding, lack of services, or language
7 barriers, the department shall promptly notify the court that the
8 parent is unable to engage in the treatment due to the inability to
9 access such services.

10 (d) This section does not create an entitlement to services and
11 does not create judicial authority to order the provision of services
12 except for the specific purpose of making reasonable efforts to remedy
13 parental deficiencies identified in a dependency proceeding under this
14 chapter.

15 NEW SECTION. Sec. 3. A new section is added to chapter 26.44 RCW
16 to read as follows:

17 (1) Each county shall revise and expand its existing child sexual
18 abuse investigation protocol to address investigations of child
19 fatality, child physical abuse, and criminal child neglect cases and to
20 incorporate the statewide guidelines for first responders to child
21 fatalities developed by the criminal justice training commission. The
22 protocols shall address the coordination of child fatality, child
23 physical abuse, and criminal child neglect investigations between the
24 county and city prosecutor's offices, law enforcement, children's
25 protective services, local advocacy groups, emergency medical services,
26 and any other local agency involved in the investigation of such cases.
27 The protocol revision and expansion shall be developed by the
28 prosecuting attorney in collaboration with the agencies referenced in
29 this section.

30 (2) Revised and expanded protocols under this section shall be
31 adopted and in place by July 1, 2008. Thereafter, the protocols shall
32 be reviewed every two years to determine whether modifications are
33 needed.

34 NEW SECTION. Sec. 4. A new section is added to chapter 43.101 RCW
35 to read as follows:

36 (1) The commission, in consultation with the department of social

1 and health services, the Washington association of sheriffs and police
2 chiefs, and the Washington association of prosecuting attorneys, shall
3 develop a curriculum related to child abuse and neglect to be included
4 in the basic law enforcement training that must be successfully
5 completed within the first fifteen months of employment of all law
6 enforcement personnel.

7 (2) The curriculum must be incorporated into the basic law
8 enforcement training program by July 1, 2008.

9 NEW SECTION. **Sec. 5.** (1) The joint legislative audit and review
10 committee shall analyze gaps throughout the state in the availability
11 and accessibility of services identified in the federal adoption and
12 safe families act as it existed on the effective date of this section.

13 (2) The joint legislative audit and review committee shall submit
14 to appropriate committees of the legislature a report and
15 recommendations by December 1, 2007.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 13.34 RCW
17 to read as follows:

18 (1) The administrative office of the courts, in consultation with
19 the attorney general's office and the department of social and health
20 services, shall compile an annual report, providing information about
21 cases that fail to meet statutory guidelines to achieve permanency for
22 dependent children.

23 (2) The administrative office of the courts shall submit the annual
24 report required by this section to appropriate committees of the
25 legislature by December 1st of each year, beginning on December 1,
26 2007.

27 **Sec. 7.** RCW 74.13.330 and 1990 c 284 s 23 are each amended to read
28 as follows:

29 Foster parents are responsible for the protection, care,
30 supervision, and nurturing of the child in placement. As an integral
31 part of the foster care team, foster parents shall, if appropriate and
32 they desire to: Participate in the development of the service plan for
33 the child and the child's family; assist in family visitation,
34 including monitoring; ((and)) model effective parenting behavior for

1 the natural family; and be available to help with the child's
2 transition back to the natural family.

3 **Sec. 8.** RCW 71.24.035 and 2006 c 333 s 201 are each amended to
4 read as follows:

5 (1) The department is designated as the state mental health
6 authority.

7 (2) The secretary shall provide for public, client, and licensed
8 service provider participation in developing the state mental health
9 program, developing contracts with regional support networks, and any
10 waiver request to the federal government under medicaid.

11 (3) The secretary shall provide for participation in developing the
12 state mental health program for children and other underserved
13 populations, by including representatives on any committee established
14 to provide oversight to the state mental health program.

15 (4) The secretary shall be designated as the regional support
16 network if the regional support network fails to meet state minimum
17 standards or refuses to exercise responsibilities under RCW 71.24.045.

18 (5) The secretary shall:

19 (a) Develop a biennial state mental health program that
20 incorporates regional biennial needs assessments and regional mental
21 health service plans and state services for mentally ill adults and
22 children. The secretary shall also develop a six-year state mental
23 health plan;

24 (b) Assure that any regional or county community mental health
25 program provides access to treatment for the region's residents,
26 including parents who are defendants in dependency cases, in the
27 following order of priority: (i) The acutely mentally ill; (ii)
28 chronically mentally ill adults and severely emotionally disturbed
29 children; and (iii) the seriously disturbed. Such programs shall
30 provide:

31 (A) Outpatient services;

32 (B) Emergency care services for twenty-four hours per day;

33 (C) Day treatment for mentally ill persons which includes training
34 in basic living and social skills, supported work, vocational
35 rehabilitation, and day activities. Such services may include
36 therapeutic treatment. In the case of a child, day treatment includes

1 age-appropriate basic living and social skills, educational and
2 prevocational services, day activities, and therapeutic treatment;

3 (D) Screening for patients being considered for admission to state
4 mental health facilities to determine the appropriateness of admission;

5 (E) Employment services, which may include supported employment,
6 transitional work, placement in competitive employment, and other work-
7 related services, that result in mentally ill persons becoming engaged
8 in meaningful and gainful full or part-time work. Other sources of
9 funding such as the division of vocational rehabilitation may be
10 utilized by the secretary to maximize federal funding and provide for
11 integration of services;

12 (F) Consultation and education services; and

13 (G) Community support services;

14 (c) Develop and adopt rules establishing state minimum standards
15 for the delivery of mental health services pursuant to RCW 71.24.037
16 including, but not limited to:

17 (i) Licensed service providers. These rules shall permit a county-
18 operated mental health program to be licensed as a service provider
19 subject to compliance with applicable statutes and rules. The
20 secretary shall provide for deeming of compliance with state minimum
21 standards for those entities accredited by recognized behavioral health
22 accrediting bodies recognized and having a current agreement with the
23 department;

24 (ii) Regional support networks; and

25 (iii) Inpatient services, evaluation and treatment services and
26 facilities under chapter 71.05 RCW, resource management services, and
27 community support services;

28 (d) Assure that the special needs of minorities, the elderly,
29 disabled, children, (~~and~~) low-income persons, and parents who are
30 defendants in dependency cases are met within the priorities
31 established in this section;

32 (e) Establish a standard contract or contracts, consistent with
33 state minimum standards and RCW 71.24.320, 71.24.330, and 71.24.3201,
34 which shall be used in contracting with regional support networks. The
35 standard contract shall include a maximum fund balance, which shall be
36 consistent with that required by federal regulations or waiver
37 stipulations;

1 (f) Establish, to the extent possible, a standardized auditing
2 procedure which minimizes paperwork requirements of regional support
3 networks and licensed service providers. The audit procedure shall
4 focus on the outcomes of service and not the processes for
5 accomplishing them;

6 (g) Develop and maintain an information system to be used by the
7 state and regional support networks that includes a tracking method
8 which allows the department and regional support networks to identify
9 mental health clients' participation in any mental health service or
10 public program on an immediate basis. The information system shall not
11 include individual patient's case history files. Confidentiality of
12 client information and records shall be maintained as provided in this
13 chapter and in RCW 71.05.390, 71.05.420, and 71.05.440;

14 (h) License service providers who meet state minimum standards;

15 (i) Certify regional support networks that meet state minimum
16 standards;

17 (j) Periodically monitor the compliance of certified regional
18 support networks and their network of licensed service providers for
19 compliance with the contract between the department, the regional
20 support network, and federal and state rules at reasonable times and in
21 a reasonable manner;

22 (k) Fix fees to be paid by evaluation and treatment centers to the
23 secretary for the required inspections;

24 (l) Monitor and audit regional support networks and licensed
25 service providers as needed to assure compliance with contractual
26 agreements authorized by this chapter;

27 (m) Adopt such rules as are necessary to implement the department's
28 responsibilities under this chapter; and

29 (n) Assure the availability of an appropriate amount, as determined
30 by the legislature in the operating budget by amounts appropriated for
31 this specific purpose, of community-based, geographically distributed
32 residential services.

33 (6) The secretary shall use available resources only for regional
34 support networks, except to the extent authorized, and in accordance
35 with any priorities or conditions specified, in the biennial
36 appropriations act.

37 (7) Each certified regional support network and licensed service
38 provider shall file with the secretary, on request, such data,

1 statistics, schedules, and information as the secretary reasonably
2 requires. A certified regional support network or licensed service
3 provider which, without good cause, fails to furnish any data,
4 statistics, schedules, or information as requested, or files fraudulent
5 reports thereof, may have its certification or license revoked or
6 suspended.

7 (8) The secretary may suspend, revoke, limit, or restrict a
8 certification or license, or refuse to grant a certification or license
9 for failure to conform to: (a) The law; (b) applicable rules and
10 regulations; (c) applicable standards; or (d) state minimum standards.

11 (9) The superior court may restrain any regional support network or
12 service provider from operating without certification or a license or
13 any other violation of this section. The court may also review,
14 pursuant to procedures contained in chapter 34.05 RCW, any denial,
15 suspension, limitation, restriction, or revocation of certification or
16 license, and grant other relief required to enforce the provisions of
17 this chapter.

18 (10) Upon petition by the secretary, and after hearing held upon
19 reasonable notice to the facility, the superior court may issue a
20 warrant to an officer or employee of the secretary authorizing him or
21 her to enter at reasonable times, and examine the records, books, and
22 accounts of any regional support network or service provider refusing
23 to consent to inspection or examination by the authority.

24 (11) Notwithstanding the existence or pursuit of any other remedy,
25 the secretary may file an action for an injunction or other process
26 against any person or governmental unit to restrain or prevent the
27 establishment, conduct, or operation of a regional support network or
28 service provider without certification or a license under this chapter.

29 (12) The standards for certification of evaluation and treatment
30 facilities shall include standards relating to maintenance of good
31 physical and mental health and other services to be afforded persons
32 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
33 otherwise assure the effectuation of the purposes of these chapters.

34 (13) The department shall distribute appropriated state and federal
35 funds in accordance with any priorities, terms, or conditions specified
36 in the appropriations act.

37 (14) The secretary shall assume all duties assigned to the
38 nonparticipating regional support networks under chapters 71.05, 71.34,

1 and 71.24 RCW. Such responsibilities shall include those which would
2 have been assigned to the nonparticipating counties in regions where
3 there are not participating regional support networks.

4 The regional support networks, or the secretary's assumption of all
5 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
6 included in all state and federal plans affecting the state mental
7 health program including at least those required by this chapter, the
8 medicaid program, and P.L. 99-660. Nothing in these plans shall be
9 inconsistent with the intent and requirements of this chapter.

10 (15) The secretary shall:

11 (a) Disburse funds for the regional support networks within sixty
12 days of approval of the biennial contract. The department must either
13 approve or reject the biennial contract within sixty days of receipt.

14 (b) Enter into biennial contracts with regional support networks.
15 The contracts shall be consistent with available resources. No
16 contract shall be approved that does not include progress toward
17 meeting the goals of this chapter by taking responsibility for: (i)
18 Short-term commitments; (ii) residential care; and (iii) emergency
19 response systems.

20 (c) Notify regional support networks of their allocation of
21 available resources at least sixty days prior to the start of a new
22 biennial contract period.

23 (d) Deny all or part of the funding allocations to regional support
24 networks based solely upon formal findings of noncompliance with the
25 terms of the regional support network's contract with the department.
26 Regional support networks disputing the decision of the secretary to
27 withhold funding allocations are limited to the remedies provided in
28 the department's contracts with the regional support networks.

29 (16) The department, in cooperation with the state congressional
30 delegation, shall actively seek waivers of federal requirements and
31 such modifications of federal regulations as are necessary to allow
32 federal medicaid reimbursement for services provided by free-standing
33 evaluation and treatment facilities certified under chapter 71.05 RCW.
34 The department shall periodically report its efforts to the appropriate
35 committees of the senate and the house of representatives.

1 NEW SECTION. **Sec. 9.** This act may be known and cited as Sirita's
2 law.

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